



City Council

Staff Report

TO: Honorable Mayor and City Council

FROM: John Crivello, Fire Chief

THROUGH: John Jansons, City Manager *[Signature]*

DATE: June 27, 2016

SUBJECT: Cooperative Fire Protection Agreement

RECOMMENDED ACTION:

It is respectfully recommended that the City Council:

- 1) Approve the Mutual Aid and Dispatch Cooperative Agreement with Tulare County, and
- 2) Authorize the Mayor to execute the Agreement.

BACKGROUND:

In July of 1986 the City left the CDF/County Fire contract for full fire protection services and formed the City of Farmersville Fire Department. A new agreement was signed that included dispatch, training, and fire prevention services. Fire response was considered "Assistance by Hire".

The dispatch rate then was \$31 per call and "Mutual Aid" was charged at a rate of up to \$115 per hour based upon the number of CDF/TCFD personnel responding and included Training Bureau support costs of \$1500 per year and \$200 per drill.

The agreement was revised to \$25 per call in 1987 and again back to \$31 per call in 1989 which is the most current agreement which dropped the hourly rate and included a flat response fee of \$150 charged by each agency to each other. In 2002, the County unilaterally imposed a revised dispatch fee based upon call volume that ranged from \$13-\$15 per call. It appears the \$150 per call response charge ceased at that time.

In 2005, the agencies agreed to an expanded response area due to various county fire stations closing.

DISCUSSION:

In the 30 years that the City has been providing locally controlled fire protection services the FFD has demonstrated its capability as a solid, reliable response partner. The dispatch rate has remained at the unilaterally imposed rate based upon call volume. The dispatch cost based upon the calls for service in Farmersville equals approximately \$10,000 per year.

In 2015, the TCFD approached FFD and stated they intended to increase the dispatch rate to \$44 per call in a manner much like the TCSO charges the FPD. The costs to the City for fire dispatching at the new "actual" rate per call would be approximately \$40,000. The new agreement formally recognizes the expanded mutual aid area and in consideration of the reciprocity difference in calls for service provides dispatching services at no cost to the city. In addition, the agreement no longer contains a provision that the county will provide training services and there is no fee for response service or limits of units responding. It is in essence a "you help us and we help you" agreement.

The FFD provides timeliness in response to surrounding unincorporated areas, and the TCFD provides a depth of response and support resources that the FFD needs in terms of additional engine or truck companies, breathing support, fire investigators and safety officers. The proposed agreement provides critical back up to the city when further help is needed and/or when FFD resources are unavailable such as back to back calls.

In summary, fire service cooperative agreements such as this serve the public well irrespective of jurisdiction, by providing a closest unit concept the public is assured the most rapid aid to protect property and save lives. Efficient service is therefore provided by the entire system rather than the strength of any individual agency alone.

COORDINATION AND REVIEW:

The recommended action and the accompanying report was reviewed with the City Manager and reviewed and approved "as to form" by the City Attorney.

ALTERNATIVES:

If the cooperative agreement was not executed, the County of Tulare could impose their current market rates for dispatch which would ultimately cost the City \$40,000 per year based upon current call volume with future costs expected to rise further.

FISCAL IMPACT:

Approving the agreement will continue to save the fire department budget \$10,000 per year in current dispatch costs. In addition, this action will create savings in the General Fund by avoiding \$40,000 or more in dispatching costs in future years.

CONCLUSION:

It is respectfully recommended that the City Council:

- 1) Approve the Mutual Aid and Dispatch Cooperative Agreement with Tulare County, and
- 2) Authorize the Mayor to execute the Agreement.

ATTACHMENT(S) - 1

Cooperative Agreement for Mutual Aid, Emergency Dispatch and Communications.

Respectfully Submitted,



John Crivello
Fire Chief

Reviewed by:



Moses Diaz
City Attorney

Approved By:



John Jansons
City Manager

COOPERATIVE FIRE PROTECTION AGREEMENT

Between

COUNTY OF TULARE

And

CITY OF FARMERSVILLE
FOR MUTUAL AID, USE OF RADIO FREQUENCIES, AND
EMERGENCY DISPATCH & COMMUNICATION SERVICES

This is a COOPERATIVE FIRE PROTECTION AGREEMENT between TULARE COUNTY ("COUNTY"), and the CITY OF FARMERSVILLE ("CITY"), and is entered into this 1st day of July 2016.

WHEREAS, pursuant to Government Code section 6500 et seq., and Health and Safety Code section 13050, the County and City desire to render aid to each other in combating fires when such aid is necessary; and

WHEREAS, pursuant to Government Code sections 6502 and 55632, and Health and Safety Code section 13050 et seq., the parties have the common power to provide fire protection services and desire to jointly exercise said power through an agreement which would allow assistance; and

WHEREAS, pursuant to Federal Communications Commission Rules and Regulations section 90.179, the sharing of radio frequencies is authorized; and

WHEREAS, pursuant to Government Code sections 51300 et seq., and 6500 et seq., the County may enter into agreements for emergency dispatch and communication services; and

WHEREAS, the purpose of this Agreement is to provide for the rendering of assistance whenever fires or emergency incidents may occur within certain areas of the jurisdictions of the parties which, due to the location, or size of the fires, or other emergency incidents, such fires or emergency incidents cannot be adequately responded to and handled by the fire department of the party having jurisdiction without additional assistance.

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. **DEFINITIONS:** Unless the particular provisions or context otherwise requires, the definitions contained in this section shall govern the construction, meaning, and application of words used in this Agreement.
 - (a) "Fire Protection Services" shall mean firefighting capacity to contain, control, and extinguish fires and shall include first aid and rescue services.

- (b) "Requesting Party" shall mean any party to this Agreement that requests fire protection services and/or mutual aid within its jurisdictional area from the other party to this Agreement.
 - (c) "Responding Party" shall mean any party to this Agreement that receives a request for, and consequently provides, fire protection services and/or mutual aid within the jurisdiction of the requesting party.
 - (d) "Unit" shall mean an engine, or truck company including apparatus, equipment and personnel.
 - (e) "Closest available resources" shall mean any participating Mutual Aid fire agency's firefighting apparatus that is nearest in proximity to the location of the emergency activity.
 - (f) "Mutual Aid" is defined as the provision of resources (personnel, apparatus and equipment) to a requesting party who is already engaged in emergency operations and which has exhausted or will shortly exhaust its own local resources.
2. **GOVERNING LAW:** This Agreement shall be interpreted and governed under the laws of the State of California without reference to California conflicts of law principles. The parties agree that this contract is made in and shall be performed in Tulare County, California.
 3. **DISPUTE RESOLUTION:** If a dispute arises out of or relating to this Agreement, or the breach thereof, and if said dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by non-binding mediation before resorting to litigation or some other dispute resolution procedure, unless the parties mutually agree otherwise. The mediator shall be mutually selected by the parties, but in case of disagreement, the mediator shall be selected by lot from among two nominations provided by each party. All costs and fees required by the mediator shall be split equally by the parties; otherwise each party shall bear its own costs of mediation. If mediation fails to resolve the dispute within thirty (30) days, either party may pursue litigation to resolve the dispute.
 4. **CONSTRUCTION:** This Agreement reflects the contributions of all undersigned parties and accordingly the provisions of Civil Code section 1654 shall not apply to address and interpret any alleged uncertainty or ambiguity.
 5. **HEADINGS:** Section headings are provided for organizational purposes only and do not in any manner affect the scope, meaning or intent of the provisions under the headings.
 6. **CONFLICT WITH LAWS OR REGULATIONS/SEVERABILITY:** This Agreement is subject to all applicable laws and regulations. If any provision of this Agreement is found by any court or other legal authority, or is agreed by the parties to be in conflict with any code or regulation governing its subject matter, only the conflicting provision shall be

considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the Agreement to either party is lost, the Agreement may be terminated at the option of the affected party. In all other cases the remainder of the Agreement shall continue in full force and effect.

7. **ASSURANCES OF NON-DISCRIMINATION:** The parties to this Agreement must not discriminate in employment or in the provision of services hereunder on the basis of any characteristic or condition upon which discrimination is prohibited by state or federal law or regulation.
8. **FURNISHING OF FIRE PROTECTION SERVICES:** The Responding Party shall furnish fire protection services and mutual aid within the jurisdiction of the party requesting such service pursuant to the following provisions:
 - (a) The COUNTY and CITY agree to furnish fire protection personnel, equipment, materials and supplies, and to render such fire protection services to each other as may be available and necessary to suppress fire of a size, and/or complexity beyond the control of either party hereto acting without the assistance of the other, and the control of which therefore requires the assistance from the other within the defined service area described in **EXHIBIT A**, which is incorporated into this Agreement by this reference.
 - (b) The territories covered by this Agreement are the CITY limits of Farmersville, and the territory of the COUNTY within the boundaries as set forth in the map attached hereto as **EXHIBIT B** and incorporated herein by reference.
 - (c) The Requesting Party, which has primary jurisdiction for fire protection in the area involved, will direct all operations and support activities and request additional assistance, as needed; provided that the first arriving unit from either party must take initial appropriate action to protect life and property. While on site at the scene of an emergency, the Responding Party's employees must comply with directives from the Requesting Party.
 - (d) When either party hereto responds to incidents outside its jurisdiction, the agency with primary responsibility will provide an officer of its department who will supervise and direct activities and assume responsibility for releasing any fire company from the scene.
 - (e) Except as may be provided by separate written agreement between the parties hereto, the assurance of mutual aid set forth herein shall constitute the sole consideration for the performance hereof, and neither party shall be obligated to reimburse hereunder, or for any use of material, damage to equipment, or liability incurred or which may occur in the course of rendering mutual aid and/or fire protection services under this Agreement, including normal wear, tear and use of all equipment utilized for mutual aid and fire protection services rendered hereunder.

- (f) Unless specifically set forth, the parties to this Agreement do not intend to provide any other person or entity with any legal benefit or enforceable legal or equitable right or remedy.
- (g) Nothing contained herein shall affect either party's responsibility to provide worker's compensation insurance or protection for its employees.
- (h) This Agreement shall subrogate all previous fire protection service agreements made between CITY and COUNTY. This is a furtherance of the "California Disaster and Civil Defense Master Mutual Aid Agreement".

9. **RADIO COMMUNICATIONS:** The CITY agrees to acquire and maintain at its own expense radio communications equipment meeting specifications approved by COUNTY to operate on the following frequencies:

TLC 1, 2 and 3

Number of radios by type using authorized frequencies:

Base Station: 1, Mobile: 6, Portable: 12

10. **RADIO EQUIPMENT:** The equipment referred to in paragraph 9 above, shall be and remain the property of CITY, but COUNTY shall be the licensee pursuant to Federal Communications Commission Rules and Regulations. The applications for authority to add to or modify station licenses shall be made by and in the name of the COUNTY.
- (a) COUNTY authorizes the CITY to operate said equipment for tests purposes and operational use.
 - (b) CITY agrees to operate and maintain said equipment in accordance with the rules and regulations of the Federal Communications Commission and the operation procedures established by the COUNTY. In the event of any violation by the CITY of such rules and regulations or of any other law concerning the operation of said equipment, COUNTY may terminate this Agreement at any time.
11. **EMERGENCY DISPATCH SERVICES:** The COUNTY agrees to provide emergency dispatch and communications services to the CITY in accordance with this Agreement and **EXHIBIT C** which is attached hereto and incorporated herein by reference.
- (a) **COST OF EMERGENCY DISPATCH SERVICES:** In consideration of the expanded response area to be covered by the CITY into the COUNTY area of responsibility as outlined in **EXHIBIT B**, the COUNTY will provide dispatch services without a cost to the CITY.
12. **COUNTY STANDARDS:** In rendering of fire protection services, emergency dispatch and communication services by the COUNTY, the standards of performance including all work, the assignment and discipline of personnel, and other matters incidental to the

performance of such services and the control of personnel so employed, shall remain with the COUNTY's Fire Chief. In the event of a dispute between the parties concerning the extent of the duties and functions to be rendered by COUNTY under this Agreement or the level or manner of performance of such services, the determination made by the COUNTY's Fire Chief shall be final and conclusive.

13. **CITY STANDARDS:** In rendering of fire protection services by the CITY, the standards of performance including all work, the assignment and discipline of personnel, and other matters incidental to the performance of such services and the control of personnel so employed, shall remain with the CITY's Fire Chief. In the event of a dispute between the parties concerning the extent of the duties and functions to be rendered by CITY under this Agreement or the level or manner of performance of such services, the determination made by the CITY's Fire Chief shall be final and conclusive.
14. **EMPLOYEE STATUS:** As between the parties hereto, no officers, agents or employees of the COUNTY or COUNTY-hired Extra Help Firefighters shall be deemed to be CITY employees or have any CITY pension, civil service, or any status or right with regard to the CITY, and no officers, agents or employees of the CITY or CITY-hired volunteer firefighters shall be deemed to be COUNTY employees or have any COUNTY pension, civil service, or any status or right with regard to the COUNTY.
15. **TERMINATION:** Each party shall have the right to terminate this Agreement upon the default of the other party, such termination to be effective upon ninety (90) days written notice of termination to the defaulting party. Default occurs upon the failure of a party to remedy a default under the terms of this agreement within ninety (90) days after the non-defaulting party has given the other party written notice of a failure to comply and the nature thereof.
16. **INDEMNIFICATION:**
 - (a) From Requesting Party: The Requesting Party shall hold harmless, defend and indemnify the Responding Party and the latter's agents, officers, employees and volunteer firefighters from and against any liability, claims, actions, costs, damages or losses of any kind, including death or injury to any person and/or damage to property, including public property, arising from or in connection with rendering of fire protection services and/or mutual aid under this Agreement, except to the extent that the conduct of the Responding Party was grossly negligent, tortious or unlawful. Furthermore, this indemnification includes any claims that may be made against any party by any taxing authority asserting that an employer-employee relationship exists by reason of this Agreement or the services and aid rendered hereunder, and any claims made against any party for alleged civil rights violations. This indemnification obligation shall continue beyond the term of this Agreement as to any acts, conduct or omissions occurring under this Agreement or any extension hereof.
 - (b) Mutual Indemnification: Notwithstanding section 16(a), and except to the extent that the conduct of party seeking indemnification was grossly negligent, tortious or unlawful, each of the parties agree to indemnify, save, hold harmless and defend

upon timely request, any other party to this Agreement, its governing body, committees, representatives, officers, agents, volunteers and employees from and against any and all costs and expenses, damages, liabilities, claims, and losses (whether in civil rights, tort or strict liability, including without limitation, personal injury, death and property damage) occurring or resulting to the party to be indemnified, arising from any grossly negligent or tortious acts or omissions of the party from whom indemnification is sought, its officers, agents or employees in their performance of service or aid under this Agreement. This indemnification obligation shall continue beyond the term of this Agreement as to any acts, conduct or omissions occurring under this Agreement or any extension hereof.

17. **AMENDMENT:** This Agreement may only be amended by the mutual written consent of both parties.
18. **INTEGRATION:** This Agreement, upon its effective date, will supersede and replace any existing agreements between the parties with respect to the subject-matter hereof. This Agreement represents the entire agreement between CITY and COUNTY as to its subject matter and no prior oral or written understanding shall be of any force or effect. No part of this Agreement may be modified without the written consent of both parties.
19. **TERM OF AGREEMENT:** This Agreement shall become effective on the 1st day of **July 2016** and shall terminate on the 1st day of **July 2017**, provided, however, such Agreement shall automatically be extended for one or more consecutive terms of one (1) year each, upon the same terms and conditions which are applicable to the original term of the Agreement. Either party shall have the right to terminate this Agreement without cause upon thirty (30) days prior written notice to the other party.
20. **NOTICE:** Any notice to be given hereunder shall be written and served either by personal delivery or by first-class mail, postage prepaid and properly addressed, as follows:

COUNTY: Board of Supervisors
County of Tulare
Administration Building
County Civic Center
2800 West Burrel
Visalia, CA 93291

CITY: City Manager
City of Farmersville
909 W. Visalia Road
Farmersville, CA 93223

21. **COMPLIANCE WITH LAW:** The parties shall perform under this Agreement in accordance with all applicable federal, state and local laws, regulations and directives. With respect to their own employees which render fire protection services or mutual aid under this Agreement, each of the parties must comply with all laws and regulations pertaining to wages and hours, state and federal income tax, unemployment insurance,

Social Security, disability insurance, workers' compensation insurance and discrimination in employment.

22. **EXHIBITS AND RECITALS:** The recitals and the exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.
23. **WAIVERS:** The failure of either party to insist on strict compliance with any provision of this Agreement shall not be considered a waiver of any right to do so, whether for that breach or any subsequent breach. The acceptance by either party of either performance or payment shall not be considered to be a waiver of any preceding breach of the Agreement by the other party.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

Approved as to Form:

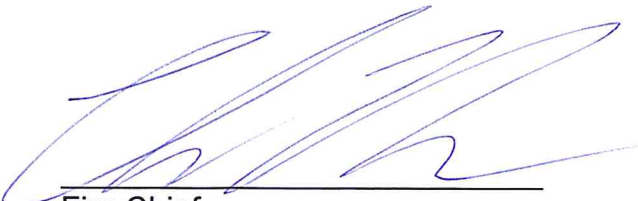
Approved as to Form:

County Counsel

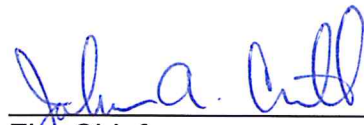
City Attorney or Deputy

Board of Supervisors, Chairperson
County of Tulare

City Council, Mayor
City of Farmersville



Fire Chief
County of Tulare



Fire Chief
City of Farmersville

EXHIBIT "A"

MUTUAL FIRE PROTECTION AID

1. Mutual Aid shall be provided within the limits of the County of Tulare. However, neither party shall be required to reduce its own fire protection resources, personnel, services, and facilities to the detriment of its normal fire protection capability.
2. No response to a mutual aid request will be made by either the COUNTY or the CITY unless such request is received through the established communications channels common to each party and made by a responsible fire official of the party requesting such aid.
3. Fire protection personnel, furnished by one party to the other party, will work as far as feasible under their own supervisors. Equipment furnished by one party to the other party will ordinarily be operated by personnel of the party furnishing the equipment. General directions relative to the work will be given by the respective Fire Chief or designee.
4. Neither party shall be obligated to reimburse the other for any use of material, damage to equipment, or liability incurred which may occur in the course of rendering firefighting assistance, other than as may be expressly provided elsewhere in this Agreement.
5. Mutual aid covers day-to-day operations only and shall not be in force and effect when a state of extreme emergency has been proclaimed and when the California Disaster and Civil Defense Master Mutual Aid Agreement becomes operative.

EXHIBIT "B"

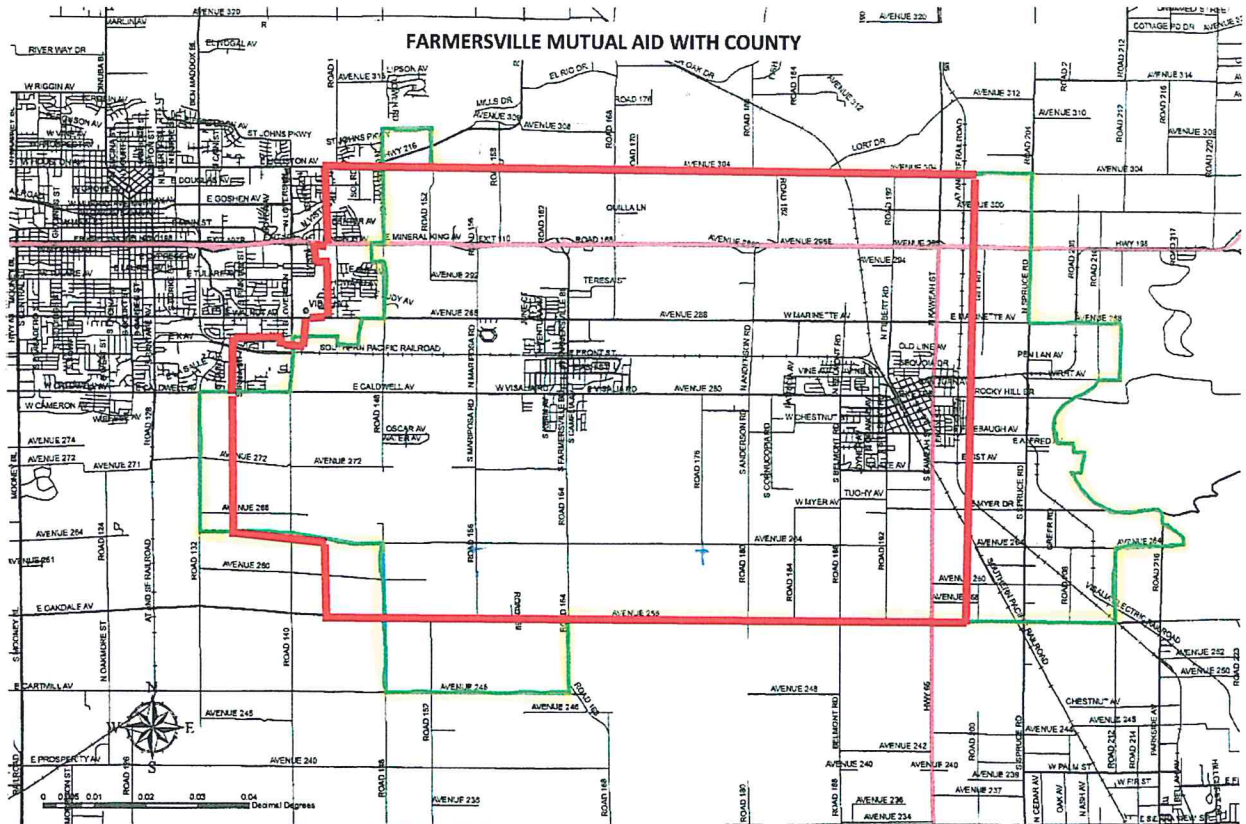


EXHIBIT "C"

EMERGENCY DISPATCH AND COMMUNICATION SERVICES

1. COUNTY agrees to provide emergency dispatch and communication services to the CITY as follows:
 - a. Answer and interrogate emergency calls and callers twenty-four (24) hours per day, seven (7) days per week, all year;
 - b. Alert appropriate personnel, as designated by CITY, for emergency response.
 - c. Monitor response and dispatch additional personnel and/or equipment as requested by the Incident Commander.
 - i. The Incident Commander is responsible for the command function at all times. The term Incident Commander or IC refers to the person in charge of the incident. The identifier is IC. If the incident dictates that a Unified Command be established, there is still only 1 IC; however, the IC shall declare over the dispatch or command channel that Unified Command is established, and state which agencies or jurisdictions are a part of the Unified Command.
 - ii. FireComm will name the incident and assign a tactical channel during the initial dispatch after all units go responding. The first fire unit to arrive on scene shall assume "IC". Incident Command shall be established when fire suppression resources exceed two units. The first arriving fire unit will remain the IC until relieved in accordance with this policy, or the incident is stabilized and terminated.